

## **REMARKS / ARGUMENTS**

Claims 1-6, 9-13, 32-39, 42, 44-48, 62, 69-72 and 74-76 are pending in the present application. Claims 1-6, 9-13 and 32-38 were withdrawn from consideration. Claims 39, 62 and 69 are independent.

Claims 39, 42, 44-46, 48, 62, 69-72 and 74-76 were rejected as obvious over U.S. Patent No. 5,643,296 (Hundertmark et al.) in view of U.S. Patent No. 5,053,044 (Mueller et al.). Claim 47 was rejected as being unpatentable over Hundertmark et al. in view of U.S. Patent No. 5,941,869 (Patterson et al.).

Claims 39, 42, 44-48, 62, 69-72 and 74-76 were rejected as being unpatentable over claims 19-24 of copending Application No. 10/421,979 and claims 1-15 of copending Application No. 10/288,581.

### **Discussion**

#### **The Cited Art**

Hundertmark discloses a catheter which removes material from a vascular location. The catheter is anchored at a fixed position within a vessel using a balloon. The balloon is inflated to force material into a cutting window. A cutting element is then moved along the window to remove the material which extends into the cutting window.

Mueller discloses a catheter having a blade which cuts tissue when the catheter is moved through a vessel without removing tissue.

#### **The Cited Art Distinguished**

Applicant respectfully disagrees with the assertion that it would have been obvious to move the catheter of Hundertmark as shown in Fig. 11 in light of Mueller.

Applicant submits that Hundertmark clearly teaches away from such a modification for the following reasons.

Hundertmark expressly asserts that outwardly extending cutting blades are unwieldy and generally undesirable (col. 2, lines 6-7). Hundertmark provides guidance structures to prevent exposure of the cutting element through the window, such as the curved shaft 170, which are designed to prevent the cutter from extending outwardly from the window. Thus, Hundertmark specifically seeks to prevent the cutting element from extending beyond the window as claimed.

With reference to Fig. 11, Hundertmark states that “with the housing 140 in such a configuration, the unguided work element 138 has a tendency to travel outward through the window 142 and into the wall of the blood vessel BV. **Such a trajectory is not desirable since it can damage the blood vessel wall.** Shaft 170 defines a curved travel path which maintains the work element 138 generally within the housing 140 and inhibits undesirable deviation of the cutter into the blood vessel wall.” (col. 9, lines 39-47, emphasis added).

Applicant submits that modifying Hundertmark in a manner which would exacerbate an express problem that Hundertmark seeks to prevent would clearly not have been obvious. Hundertmark clearly identifies Fig. 11 as an “undesirable trajectory” with Fig. 11 showing the worst position along the trajectory where the cutting element could arguably be exposed although Applicants do not concede that this is the case. Moving the catheter of Fig. 11 would appear to cause the cutting element to cut directly into the vessel wall with a cutting element that (arguably) extends out of the window which is the exact problem that Hundertmark seeks to prevent.

Dependent claims 42, 44-48, 70-72 and 74-76 are allowable since they depend from allowable independent claims 39 and 69 and because they recite independently patentable features.

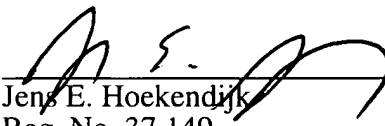
## CONCLUSION

Applicant respectfully submits that the application is in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-412-3322.

Respectfully submitted,

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Date

  
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